

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

TALECRIS BIOTHERAPEUTICS, INC.,

Plaintiff

V.

BAXTER INTERNATIONAL INC., et al.,

Defendants

C.A. No. 05-349 GMS

BAXTER HEALTHCARE CORP.,

Counterclaimant

V.

TALECRIS BIOTHERAPEUTICS, INC.
and BAYER HEALTHCARE LLC,

Counterdefendants

ORDER

WHEREAS, on June 14, 2007, the court held a pretrial conference in the above-captioned action;

WHEREAS, during the conference, an issue arose concerning the court's jurisdiction over Baxter's invalidity counterclaim given Talecris's withdrawal of all but one asserted claim of the '191 patent;

WHEREAS, after hearing argument from the parties on the issue, the court permitted the parties to submit relevant authority by Wednesday, June 20, 2007;

WHEREAS, having considered the parties' arguments at the pretrial conference, and having read and duly considered Judge Robinson's decision in *Syngenta Seeds, Inc. v. Monsanto Co.*,¹ and the Federal Circuit's decision in *Shelcore, Inc., v. Durham Indus., Inc.*,² the court finds further submissions unnecessary; and

WHEREAS, based on the above-referenced authority, the court finds that, to the extent Talecris continues to assert that Baxter infringes any claim of the '191 patent, the court retains jurisdiction over Baxter's invalidity counterclaim.

IT IS HEREBY ORDERED that:

The court shall retain jurisdiction over Baxter's invalidity counterclaim regarding claim 1 of the '191 patent, despite the fact that Talecris is proceeding on only claim 7 in its infringement case.

Dated: June 18, 2007

/s/ Gregory M. Sleet
UNITED STATES DISTRICT JUDGE

¹2004 WL 2790498 (D. Del. Nov. 22, 2004).

²745 F.2d 621 (Fed. Cir. 1984).